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June 12, 2023

VIA ECF

The Honorable Sarah L. Cave
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 18A
New York, NY 10007-1312

Re: *Flynn et al v. Cable News Network, Inc.*, No. 1:21-cv-02587-GHW-SLC

Dear Judge Cave:

We represent Defendant Cable News Network (“CNN”) and submit this letter-motion for a discovery conference and an order compelling Plaintiffs’ counsel to have his clients search for and provide certain categories of documents referenced at depositions.

Between March and May 2023, CNN’s counsel has deposed several individuals, including the Plaintiffs herein and the Plaintiffs in the related litigations in Florida, who testified as to their failures to search and/or produce potentially responsive documents. CNN’s counsel requested that those witnesses search and produce those documents. On May 8, 2023, CNN’s counsel emailed Plaintiffs’ counsel with a list of all outstanding document requests from the depositions of Jack Flynn and Leslie Flynn, among others, with citations to the corresponding deposition transcripts related to those requests. CNN’s counsel requested that Plaintiffs’ counsel search for and provide the requested documents no later than May 15, 2023. Plaintiffs’ counsel did not respond. On May 17, 2023, CNN’s counsel again emailed Plaintiffs’ counsel to follow up on those outstanding requests and supplemented the list with outstanding document requests from Jack Flynn’s deposition, with corresponding transcript citations. CNN’s counsel requested a response by May 19, 2023. Plaintiffs’ counsel again did not respond. On June 9, 2023, after CNN filed its letter-motion to seal referencing a forthcoming letter-motion, Plaintiffs’ counsel responded, as further described below. Plaintiffs’ counsel has yet to produce several key documents that were responsive to discovery requests served months ago in this litigation. CNN, therefore, respectfully requests an order compelling Plaintiffs’ counsel to search and produce the following documents.

1. Jack Flynn:

[REDACTED]

Central to this matter is a video that the Flynn’s filmed during a July 4, 2020 barbecue and posted to Twitter in which they take an oath of office followed by the QAnon phrase “Where we go one we go all.” [REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

On June 9, 2023, Plaintiffs' counsel responded that: "Jack Flynn has already responded." It is unclear as to what Plaintiffs' counsel is referring to, as Jack Flynn has not responded to this request, either at his deposition or subsequently. CNN requests that Jack Flynn produce all responsive

[REDACTED].

[REDACTED]

[REDACTED]

To the extent Plaintiffs' counsel claim any responsive document(s) are privileged, CNN requests that the Court order Plaintiffs' counsel to produce a privilege log for those document(s).

On June 9, 2023, Plaintiffs' counsel responded that: "Jack Flynn has already responded." Again, it is unclear as to what Plaintiffs' counsel is referring to, as Jack Flynn has not responded to this request, either at his deposition or subsequently. CNN requests that Jack Flynn produce all responsive documents and/or a privilege log.

2. Leslie Flynn:

[REDACTED]

[REDACTED]

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[REDACTED]

On June 9, 2023, in connection with this specific request, Plaintiffs' counsel responded that:

[REDACTED]

Leslie will amend and supplement that part of her interrogatory answer. All documents have been produced. . .”

[REDACTED]

Nor did Plaintiffs' counsel provide a date by which Leslie Flynn will amend her interrogatory answer. CNN requests that Leslie Flynn produce all responsive [REDACTED] and amend her interrogatory answer within one week of this Court's Order. If Plaintiffs' counsel maintains that these [REDACTED] have been produced, CNN requests that Plaintiffs identify them by Bates stamp.

CNN's counsel asked to meet and confer with Plaintiff's counsel pursuant to Local Civil Rule 37.2 multiple times, including on June 6, 2023, and again on June 7, 2023, with no response from Plaintiffs' counsel. Instead, on June 9, 2023, Plaintiff's counsel instead provided substantive answers by email. In light of the parties' upcoming discovery cut-off, CNN is proceeding to file this letter-motion. CNN respectfully requests an order compelling Plaintiffs' to search and produce the above-identified responsive documents. Thank you for your consideration.

Respectfully Submitted,

Davis Wright Tremaine LLP



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